

All communications respecting this case should identify it by number and names of parties.



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**PAT. & T.M. OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES**

Applicants: Adang et al.
Serial No.: 07/713,624
Filed: June 10, 1991
For: INSECT RESISTANT PLANTS
Accorded Benefit of: U.S.
Serial Nos. 07/260,574,
filed 10/21/88; 06/848,733,
filed 04/04/86, now
abandoned

The case referred to above has been forwarded to the Board of Patent Appeals and Interferences because it is adjudged to interfere with other cases hereafter specified. Attention is directed to the fact that this interference is declared pursuant to 37 CFR 1.601 et seq., effective February 11, 1985 (49 F.R. 48416. 1050 O.G. 385). The interference is designated as No. 103,324.

By direction of the Commissioner of Patents and Trademarks and as required by 35 USC 135(c), notice is hereby given the parties of the requirement of the law for filing in the Patent and Trademark Office a copy of any agreement "in connection with or in contemplation of the termination of the interference."

The cases involved in this interference are:

Junior Party

Applicants: David A. Fischhoff and Stephen G. Rogers

Address: 216 Hawthorne, Webster Groves, MO 63119
4235 West Pine, #2, St. Louis, MO 63108

Serial No.: 07/813,250, filed 12/23/91

For: INSECT RESISTANT TOMATO PLANTS

Assignee: None

Attorneys of Record: Dennis R. Hoerner, Jr., Larry R. Swaney,
James W. Williams, Jr., and Arnold H. Cole

Associate Attorney: None

Accorded Benefit of: U.S. Serial No. 06/932,818, filed 11/20/86

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Senior Party

Applicants: Michael J. Adang and John D. Kemp

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6760 Raasaf Drive, Las Cruces, NM 88005

Serial No.: 07/713,624, filed 06/10/91

For: INSECT RESISTANT PLANTS

Assignee: Lubrizol Genetics, Inc., Wickliffe, OH, A Corporation
of Nevada

Attorneys of Record: Roman Saliwanchik, David R. Saliwanchik,
Jeff Lloyd, Ted W. Whitlock and Jean Kyle

Associate Attorneys: Thomas J. Macpeak

Accorded Benefit of: U.S. Serial Nos. 07/260,574, filed 10/21/88;
06/848,733, filed 04/04/86, now abandoned

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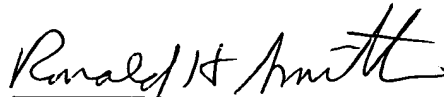
Count 1

A tomato plant which has been regenerated from a tomato plant cell transformed to comprise a full length *Bacillus thuringiensis* crystal protein gene capable of encoding a *Bacillus thuringiensis* crystal protein of about 130 kD under control of a promoter such that said gene is expressible in said plant in amounts insecticidal to Lepidopteran insects.

The claims of the parties which correspond to this count are:

Fischhoff et al.: Claims 11-12, 15-16, 20-21, 24-25, 38-39 and 42-43.

Adang et al.: Claims 16-17, 22, 25-27, 29-32, 34, 46-50 and 57; 40/16, 40/26, 40/27, 40/29, 40/30; 43/16, 43/26, 43/27, 43/29 and 43/30.



Ronald H. Smith
Administrative Patent Judge
(703) 603-3341

RHS/raj